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GOOGLE INC.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 ORACLE AMERICA, INC.,
16 Plaintiffs,
17 v.
18 GOOGLE INC.,
19 Defendant.

Case No. 3:10-cv-03561 WHA (DMR)

**GOOGLE INC.'S REPLY IN SUPPORT
OF ITS MOTION TO REDACT AND
SEAL PORTIONS OF THE JANUARY 14,
2016 DISCOVERY HEARING
TRANSCRIPT**

20 Dept. Courtroom 4, 3rd Floor (Oakland)
21 Judge: Hon. Donna M. Ryu
22 Date: February 25, 2016
23 Time: 11:00 a.m.

REPLY MEMORANDUM OF POINTS AND AUTHORITIES

It is undisputed that highly confidential information related to Google’s financials was unexpectedly disclosed at the January 14, 2016 discovery hearing. The deadline for Oracle to file an opposition or response to Google’s motion to redact and seal this information was February 4, 2016. *See* Civ. L. R. 7-3. Oracle filed no response, and accordingly this motion is *unopposed*. Because the information at issue is highly confidential and public disclosure could have significant negative effects on Google’s business [Dkt. No. 1441-1 ¶ 3], and this information has previously been sealed by this Court under the “good cause” standard [Dkt. No. 1394 at 3], and because Google had no notice or opportunity to take prior action to prevent its disclosure, the Court should redact and seal the six lines of January 14, 2016 hearing transcript containing this sensitive information related to Google’s financials.

Although Oracle did not submit an opposition to the instant motion, it included in its response to Google’s motion for reconsideration of the Court’s order regarding sealing of confidential Google-Apple information statements regarding the confidential information at issue here. Dkt. No. 1478 at 5.

In particular, while Oracle did not oppose any of the relief Google sought in its motion for reconsideration, Oracle suggested that Google “waived” certain arguments related to sealing the confidential information at issue in this motion. Google has already addressed this argument in its reply in support of its motion for reconsideration, where it explained that Oracle cites no authority for its position that a party waives the right to seek sealing of unexpectedly disclosed confidential information unless the party immediately makes an oral motion to seal every line item of confidential information on-the-spot at the hearing. Dkt. No. 1489 at 3 n.3. Indeed, courts have granted written motions to seal portions of transcripts made after a proceeding has concluded. *See Richardson v. Mylan Inc.*, No. 09-CV-1041-JM WVG, 2011 WL 837148, at *2 (S.D. Cal. Mar. 9, 2011) (sealing transcript based on written motion); *Mosaid Techs. Inc. v. LSI Corp.*, 878 F. Supp. 2d 503, 510-14 (D. Del. 2012) (same). Sealing based on a written motion is even more appropriate where, as happened here, the information is unexpectedly revealed without notice to the designating party as required by the Protective Order [Dkt. No. 66 ¶ 5.2].

1 Accordingly, for the foregoing reasons, and as detailed in Google's opening brief,
2 Google respectfully requests that the Court grant Google's motion to redact and seal portions of
3 the transcript contained at page 4, lines 10-13 and page 6, lines 19-20.

4 Dated: February 11, 2016

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6 By: /s/ Robert A. Van Nest
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